S.B. CIVIL MISC. APPEAL NO.788/2006
[Smt. Suraj Kanwar & others Vs. Ummed Singh & another]

DATED :12.07.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. S.K. Sankhla for the appellants.

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Having heard learned counsel for the appellants and having perused the impugned award dated 22.11.2005 made by the Motor Accident Claims Tribunal [Special Court, SC/ST (Prevention of Atrocities) Cases], Jodhpur in Claim Case No. 120/2005, this court is satisfied that this appeal by the claimants, seeking enhancement over the amount of Rs. 4,35,000/- awarded by the Tribunal as compensation on account of accidental death of Pep Singh, husband of the appellant No.1, father the appellants No. 2 to 7 and son of the appellant No. 8, remains absolutely bereft of substance and deserves to be dismissed without being admitted.

While taking up quantification of compensation, the Tribunal observed that the age of the deceased was shown in post-mortem report at 45 years of age although the claimants alleged his age at 36 years. The Tribunal found that the income of the deceased was alleged at Rs. 5,000/- per month while being in a private job allegedly as Manager with Vishwakarma STD but no definite proof of such salary income

was adduced; and looking to the overall facts took his income at Rs. 3,000/- per month from private job and estimated the loss of dependency at Rs. 24,000/- per annum after deducting one-third for personal expenditure of the deceased. The Tribunal applied a multiplier of 15 and thereby calculated pecuniary loss at Rs.3,60,000/-. The Tribunal also awarded Rs.10,000/- as funeral expenses and Rs. 20,000/- as loss of consortium to the claimant No.1(wife), Rs. 30,000/- to the claimants Nos. 2 to 7 (children) for loss of love, affection and guidance and Rs. 5,000/- for loss of services and company to the claimant No. 8 and awarded yet further Rs. 10,000/- for other related expenses. The Tribunal has, therefore, made an award in the sum of Rs. 4,35,000/- in favour of the claimants and has further allowed them interest @ 7.5% per annum from the date of filing of the claim application.

Having examined the considerations adopted by the Tribunal and the award in its totality, to say the least, this Court is constrained to observe that the award is definitely on higher side and does not call for upward revision. The appellants seek to contend that looking to the salary income of the deceased, the Tribunal has taken the loss of contribution at lower side. The submission is not correct. When no definite proof of income was available on record, looking to the fact that the deceased was alleged to be in some private job, the Tribunal took the income at Rs. 3,000/- per month, i.e. Rs.

36,000/- per annum and estimated the loss of dependency at Rs. 24,000/- per annum. Then, the choice of multiplier of 15 cannot be said to be inadequate; rather in the overall fact situation, it remains on higher side. Further more, the Tribunal has proceeded to award Rs. 10,000/- towards funeral expenses; and Rs. 20,000/- to the wife of the deceased towards non-pecuniary compensation; and further Rs. 10,000/- to so-called related expenses. The amount so awarded is clearly on higher side. Yet further, the Tribunal has awarded interest at the rate of 7.5% per annum.

Having regard to overall facts and circumstances of the case, the appeal by the claimants for enhancement over such a liberal award remains wholly meritless.

There is no ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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